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## **UNREDACTED VERSION FOR PUBLIC INSPECTION**

### ***By Hand Delivery***

June 28, 2011

Marlene H. Dortch, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

**Re:** CG Docket 10-51; Convo Request for Confidential Treatment

Dear Ms. Dortch:

Convo Communications, LLC ("Convo") hereby requests confidential treatment, pursuant to Sections 0.457(d)(2) and 0.459 of the Commission's Rules, 47 C.F.R. §§ 0.457(d)(2) and 0.459, for the attached materials shared with Commission staff during an *ex parte* presentation on June 24, 2011. Specifically, on June 24, 2011, Robin Horwitz, CEO; David Bahar, Director of Government and Regulatory Affairs; Jewel Jauregui, Call Center Operations Manager, all of Convo, met with Paul de Sa, Chief, Office of Strategic Planning and Policy Analysis, Wireline Competition Bureau. The attached material was discussed during this meeting and a redacted version of the attached material was filed with the *ex parte* notice regarding the meeting. The discussion during the meeting focused on proposals set forth by the Commission in its June 28, 2010 Notice of Inquiry in the above-referenced docket, Structure and Practices of the Video Relay Service Program.

The attached documents contain confidential and proprietary commercial operational and financial information that Convo does not in the normal course of its business reveal to the public or its competitors. Convo thus requests that this information be withheld from public inspection under FOIA Exemption 4, 5 U.S.C. §552(b)(4), and Section 0.457(d)(2) of the Commission's Rules.

In support of this request, Convo provides the following information, as required by Sections 0.457(d)(2) and 0.459(b) of the Commission's Rules.

1. Information for Which Confidentiality is Requested. Convo is requesting confidential treatment for the enclosed materials, which contain proprietary and confi-

dential commercial operational and financial information about Convo's Video Relay Service ("VRS") business operations.

2. Proceeding/Reason for Submission. Convo is submitting the enclosed information under this request for confidentiality because it was shared with Commission staff during the above-referenced *ex parte* meeting relating to CG Docket No. 10-51, which is a "permit-but-disclose" proceeding.
3. Nature of Confidential Information. The attached information contains commercial operational and financial information that is proprietary and confidential and may be withheld from public disclosure under FOIA Exemption 4. The Commission has long recognized that for purposes of Exemption 4 "records are 'commercial' as long as the submitter has a commercial interest in them." *Robert J. Butler*, 6 FCC Rcd 5414, 5415 (1991), citing *Public Citizen Health Research Group v. F.D.A.*, 704 F.2d 1280, 1290 (D.C. Cir. 1983); *American Airlines v. National Mediation Board*, 588 F.2d 863, 868 (2d Cir. 1978).
4. Competitiveness of Market. The commercial operational and financial information attached hereto derives from, and relates to, Convo's provision of competitive VRS and thus "concerns a service subject to competition." 47 C.F.R. § 0.459(b)(4).
5. Harm from Disclosure. The commercial operational and financial information attached hereto is proprietary and confidential because its release would likely cause competitive harm to Convo. The VRS industry is highly competitive. Competitors thus are always interested in what other participants in the VRS industry are doing to provide a higher-quality, more cost-effective service. Providing VRS competitors with access to the attached material detailing Convo's internal commercial operational and financial information would therefore competitively harm Convo. The D.C. Circuit has found parties do not have to "show actual competitive harm" to justify confidential treatment. Rather, "[a]ctual competition and the likelihood of substantial competitive injury" is sufficient to bring commercial information within the realm of confidentiality." *Public Citizen Health Research Group*, 704 F.2d at 1291, quoting *Gulf & Western Industries v. U.S.*, 615 F.2d 527, 530 (D.C. Cir. 1979).
6. Measures Taken to Prevent Unauthorized Disclosure. Convo treats the attached commercial operational and financial information as confidential and proprietary and does not publicly disclose this information.



7. Previous Disclosure. The attached information has not previously been disclosed to the public.
8. Requested Duration of Nondisclosure. The attached material should never be released for public inspection because it contains commercially sensitive, proprietary and confidential operational and financial information, the release of which would adversely affect Convo's competitive position.

For the foregoing reasons, Convo respectfully requests that the Commission withhold from public inspection the attached materials. Should you need additional information with regard to this request, please contact the undersigned.

Respectfully submitted,

David J. Bahar  
/s/  
Director of Government and Regulatory Affairs  
Convo Communications, LLC

cc: Paul de Sa, Chief, Office of Strategic Planning and Policy Analysis (by e-mail)

Attachments

**Convo Communications LLC**  
**Profit & Loss**  
January - May, 2011

[REDACTED]

Convo Communications LLC  
Summarized Income Statement

**[REDACTED]**

**Convo Communications LLC**  
**Balance Sheet**  
**As of May 31, 2011**

**[REDACTED]**

[illegible]